

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



**CORRECTED
FISCAL NOTE**

HB 548 - SB 1838

April 14, 2009

SUMMARY OF BILL: Requires the Board of Probation and Parole (BOPP) to establish an offender monitoring program and to develop implementing guidelines for the continuous satellite-based monitoring of offenders. Hardware contracts for the program shall be executed prior to June 30, 2010. Requires BOPP to report to the members of the House of Representative and Senate Judiciary Committees and to the Joint Oversight Committee on Correction regarding the implementation on or before April 1, 2011. Authorizes any court and the Board to require, as a mandatory condition of probation or release, that any offender so sentenced or released be enrolled in a satellite-based monitoring program for the full extent of the offender's term of probation or parole.

Creates a Class A misdemeanor for the intentional tampering with, removal of, or vandalism to a Global Positioning System (GPS) device by an offender enrolled in the program. Punishable by a mandatory minimum 180 days in a county jail and the offender is not eligible for suspension of sentence, diversion, or probation until the minimum sentence is served in its entirety. Second or subsequent offense is a Class E felony. If the offender is on probation, parole, or any other alternative to incarceration, a violation shall constitute grounds for immediate revocation. Creates a Class A misdemeanor for any person who knowingly aids, abets, or assists an offender in tampering with, removing, or vandalizing a GPS device. Requires BOPP to assess fees to be paid by offenders, subject to ability to pay, to offset the costs of time-correlated geographic tracking of offenders. Authorizes the Administrative Office of the Courts (AOC), the Department of Correction (DOC), the Tennessee Bureau of Investigation (TBI), and all local law enforcement agencies to share criminal incident information.

ESTIMATED FISCAL IMPACT:

On March 13, 2009, we issued a fiscal note indicating *an increase in state revenue of \$228,000; an increase in state expenditures of \$168,000/one-time, \$17,562,200/recurring, \$568,800/incarceration*; an increase in local revenue – not significant; and an increase in local expenditures of \$237,800***. Based on additional information provided by BOPP and further review, the fiscal impact of this bill is as follows:

(CORRECTED)

Increase State Revenue - \$228,000

Increase State Expenditures - \$135,200/One-Time

\$14,291,600/Recurring

\$568,800/Incarceration*

Increase Local Revenue – Not Significant

Increase Local Expenditures - \$237,800**

Assumptions:

- BOPP assumes this bill applies only to offenders on probation and parole and not offenders supervised on community corrections. BOPP currently supervises a total of 59,767 offenders. Under this bill, BOPP would supervise 2,924 offenders which would include 1,007 offenders on enhanced supervision, 1,724 sex offenders and 193 programmed supervision unit offenders.
- BOPP will require 181 positions to implement this system statewide, including GPS technical positions and parole and probation case officers. The total cost of these positions is \$7,567,906 recurring which includes salary plus benefits, travel, supplies, training, office space and other related items for 181 positions. One-time costs of \$135,200 for safety equipment for 169 positions (\$800 x 169).
- BOPP estimates at a minimum there will be 2,924 offenders on GPS and each offender will be supervised using active monitoring. The recurring GPS equipment cost is \$6,723,738 (2,924 offenders x \$6.30 cost per day x 365 days).
- BOPP currently charges offenders in the GPS program \$50 per month which would generate \$1,754,400 (\$50 x 12 months x 2,924 offenders) in revenue. Approximately 35 percent of the offenders would be exempt from this fee, resulting in \$1,140,360 actually due. BOPP estimates 20 percent collection which would result in \$228,072 in revenue.
- Currently, BOPP has 400 offenders on GPS supervision. In the past year, five offenders removed the equipment. If one percent of the 2,924 offenders tampered with or removed the GPS equipment, there would be approximately 29 offenders per year who would receive a Class A misdemeanor and would serve a mandatory minimum 180 days. An increase in local expenditures of \$237,771 (\$45.55 x 180 days x 29 offenders).
- DOC estimates one-half of those offenders (14) would tamper with or remove a GPS for a second or subsequent time and would receive a Class E felony. According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over

the next 10 years. Population growth would result in two additional offenders in the tenth year. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 16 offenders.

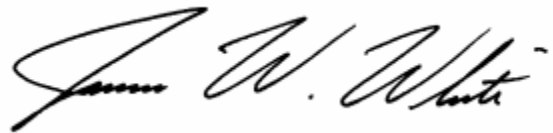
- According to DOC, the average post-conviction time served for a Class E felony is 1.63 years. The cost per offender at 1.63 years is \$35,548.11 (\$59.80 x 594.45 days). The total additional operating cost for 16 offenders in the tenth year is \$568,769.76 (\$35,548.11 x 16).
- Any impact on state trial courts can be accommodated within existing resources.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

***Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "White".

James W. White, Executive Director

/lsc